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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3
4 UNITED STATES OF AMERICA,)
5 Plaintiff,) Case No. 2:20-mj-221-DJA
6 vs.) Las Vegas, Nevada
7 LOUIS DAMATO,) Friday, March 27, 2020
8 Defendant.) Courtroom 4B
9) INITIAL APPEARANCE
10) C E R T I F I E D C O P Y

11 TRANSCRIPT OF PROCEEDINGS

12 BEFORE THE HONORABLE BRENDA N. WEKSLER,
13 UNITED STATES MAGISTRATE JUDGE

14 APPEARANCES:

15 For the Plaintiff:

16 UNITED STATES ATTORNEY'S OFFICE
17 BY: NICHOLAS D. DICKINSON, AUSA
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19 (Appearances continued on Page 2)

20 DIGITALLY RECORDED: Liberty Court Recorder (LCR)
3:34:31 p.m.

21 RECORDED BY: J. Miller

22 TRANSCRIBED BY: Heather K. Newman
23 (702) 471-0002

24 Proceedings recorded by electronic sound recording; transcript
25 produced by machine shorthand and computer-aided transcription.

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1 APPEARANCES CONTINUED:

2 For the Defendant:

3 FEDERAL PUBLIC DEFENDER'S OFFICE
4 BY: BRIAN D. PUGH, AFPD (Telephonic)
5 411 East Bonneville Avenue, Suite 250
6 Las Vegas, NV 89101
7 (702) 388-6577

8 *** DEFENDANT APPEARING VIA VTC ***

9 Also present:

10 Mariah Bassler-Wide
11 Sandra Bustos
12 United States Pretrial Services

13 * * * * *

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1 LAS VEGAS, NEVADA; FRIDAY, MARCH 27, 2020; 3:34:31 P.M.

2 --oOo--

3 P R O C E E D I N G S

4 COURTROOM ADMINISTRATOR: Your Honor, we are now
5 calling United States of America vs. Louis Damato. The case
6 number is 2:20-mj-221-DJA.

7 Beginning with government counsel, counsel please
8 state your names for the record.

9 MR. DICKINSON: Good afternoon, Your Honor,
10 Nicholas Dickinson for the United States.

11 THE COURT: Good afternoon, Mr. Dickinson.

12 MR. PUGH: Brian Pugh on behalf of Mr. Damato.

13 THE COURT: Good afternoon, Mr. Pugh.

14 Good afternoon, Mr. Damato. Can you hear us okay?

15 THE DEFENDANT: I can, Your Honor. Good afternoon.

16 THE COURT: Good afternoon.

17 Can you hear your attorney, Mr. Pugh, okay?

18 THE DEFENDANT: I can, Your Honor. Thank you.

19 THE COURT: All right. So, some housekeeping matters
20 before we get into the actual hearing. Due to COVID-19, we are
21 conducting Initial Appearances/Arraignments & Plea and
22 Detention Hearings by way of video conference. Rules 5 and 10
23 of the federal -- federal criminal rules of procedure allow for
24 hearings to take place by way of video conference if the
25 defendant consents.

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1 Mr. Pugh, does Mr. Damato consent to appearing by way
2 of video conference?

3 MR. PUGH: Yes, Your Honor.

4 THE COURT: Mr. Damato; is that correct?

5 THE DEFENDANT: That is correct, Your Honor.

6 THE COURT: Mr. Damato, during the hearing, if you
7 need to speak with your attorney, just let me know. There is a
8 procedure that we have in place whereby I will need to make
9 sure your side of the video conference is muted and you can
10 have a conversation with Mr. Pugh without the rest of us
11 hearing in. So if at any point in time you need to speak with
12 him, just signal to me and I'll make sure that we put that into
13 place. Okay?

14 THE DEFENDANT: Wonderful. That's understood,
15 Your Honor. Thank you.

16 All right. Very well.

17 THE DEFENDANT: Can you hear me okay?

18 THE COURT: I can hear you fine.

19 THE DEFENDANT: Are you able to hear me okay?
20 Wonderful. Thank you.

21 THE COURT: Can you hear me okay?

22 THE DEFENDANT: Wonderfully.

23 THE COURT: All right. So, Mr. Damato, is that your
24 true name, Luis -- Louis Damato?

25 THE DEFENDANT: Louis Anthony Damato, that is correct,

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1 Your Honor.

2 THE COURT: How old are you, sir?

3 THE DEFENDANT: 47 years old.

4 THE COURT: And how far have you gone in school?

5 THE DEFENDANT: One semester of college.

6 THE COURT: A Complaint has been filed charging you
7 with the following violations of law:

8 Count One, Threat Against a United States Official,
9 which is a violation of Title 18, United States Code §
10 115(a)(1)(B), and Count Two, Interstate Threats, which is a
11 violation of Title 18, United States Code § 875(2).

12 Did you receive a copy of the Complaint prior to
13 court?

14 THE DEFENDANT: Yes, ma'am. I'm reading it right now
15 in front of me as you're [sic] speak.

16 THE COURT: And did you have a chance to read it prior
17 to this hearing?

18 THE DEFENDANT: I did, and it was also read to me by
19 my attorney as well.

20 THE COURT: All right. Do you have any questions
21 about the Complaint?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: You're not required to make any statement
24 about the charges, either during this hearing or to any law
25 enforcement officer. Anything you do say can be used against

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1 you.

2 You have the right to a Preliminary Hearing at which
3 time the government will be required to provide evidence that
4 there is probable cause to believe you committed the crimes
5 alleged in the Complaint. In the event an Indictment is filed
6 against you regarding the charges in the Complaint, the
7 Preliminary Hearing in this matter will be vacated and you will
8 instead appear in court for an arraignment and plea to the
9 Indictment.

10 You have the right to the assistance of counsel at all
11 stages of these proceedings. If you cannot afford a lawyer,
12 one will be appointed to you at the public's expense.

13 Do you understand these rights?

14 THE DEFENDANT: I do, Your Honor. Thank you.

15 THE COURT: Can you afford to hire an attorney at this
16 time?

17 THE DEFENDANT: Not at this time, Your Honor.

18 THE COURT: All right. I see that there's been a
19 Financial Affidavit filled out. Mr. Damato, what I'm going to
20 do at this point is place you under oath.

21 Do you swear or attest that all of the information
22 that you've provided to your attorney, Mr. Pugh, with regards
23 to your finances is true and correct?

24 THE DEFENDANT: I do, Your Honor.

25 THE COURT: And do you understand that when you

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1 provided that information, that information was being provided
2 under penalty of perjury?

3 THE DEFENDANT: I do, Your Honor, a felony.

4 THE COURT: All right. And Mr. Pugh, does the
5 Financial Affidavit that has been submitted to the Court
6 contain all of the information that Mr. Damato has provided to
7 you?

8 MR. PUGH: Yes, Your Honor.

9 THE COURT: I have reviewed the Financial Affidavit.
10 I do find that Mr. Damato qualifies for the appointment of
11 counsel, and the Court will appoint the office of the Federal
12 Public Defender to assist Mr. Damato in his defense.

13 Mr. Pugh, do you have any reason to question the
14 competence of your client to understand the charges against him
15 and to assist in his defense?

16 MR. PUGH: Not at this time, Your Honor.

17 THE COURT: Do you waive the reading of the Complaint?

18 MR. PUGH: We do.

19 THE COURT: Very well.

20 As to pretrial release, what is the government's
21 position?

22 MR. DICKINSON: Your Honor, in short, the government
23 is not going to be seeking detention. If I might just make a
24 brief record?

25 THE COURT: You might.

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1 MR. DICKINSON: The government takes the charges in
2 the Information extremely seriously. As noted in the Pretrial
3 Services report, there's also an underlying state case. In
4 short, it appears Mr. Damato's actions relate to an eviction
5 procedure. Essentially started dealing with his property
6 management company resulting in many, many, many calls that
7 ultimately result -- escalated to threats to life. Before that
8 occurred, they made a complaint, Metro went out to try to tone
9 down the situation, again, calling the Metro detective. That
10 all came to a head on the date of March 16th. In addition to
11 the alleged threats in the criminal Complaint, that same
12 morning he called the Metro detective and threatened to blow
13 the head off each of his family members, et cetera. So that
14 generated an enormous law enforcement response which ended up
15 with the defendant's arrest. And I've been coordinating with
16 the state. As of now, the state is keeping the charges related
17 to the others and the federal government has, obviously, the
18 threat to Congresswoman Titus.

19 That being said, as the Court has referenced and
20 everyone knows with what is going on with the coronavirus, the
21 Court -- did the Court get a copy of the patient profile that
22 was attached to the Complaint that came over with the warrant?

23 THE COURT: I did not.

24 MR. DICKINSON: May I approach?

25 THE COURT: Sure.

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1 Has Mr. Pugh received a copy of this?

2 MR. DICKINSON: Yes, Your Honor.

3 MR. PUGH: I do have a copy, Your Honor.

4 MR. DICKINSON: I'll give the Court a second to look
5 at that.

6 (Brief pause in proceedings).

7 THE COURT: All right. Very well.

8 MR. DICKINSON: And the government had it based on
9 some of the defendant's statements, so. . . Among other --
10 among many medical conditions, the defendant appears to be
11 HIP -- V positive. The government has worked with -- and I
12 want to thank Pretrial and Mr. Pugh. We've had -- I've had
13 probably five conversations with Mr. Pugh today, as well as
14 discussing it with Pretrial, as well as discussing it with the
15 capitol police. They've sort of been the conduit under the
16 Crime Victims' Rights Act with the Congresswoman's office and
17 they understand what the government's position is. Obviously,
18 in a perfect world, they would want the defendant detained.
19 That being said, based on what is the defendant's medical
20 condition and looking at the least restrictive conditions --

21 THE COURT: Hold on one second.

22 Can everybody still hear? Mr. --

23 THE DEFENDANT: Yes, I can hear.

24 THE COURT: Okay. Very well.

25 MR. DICKINSON: The government is going to concur with

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1 the conditions that Pretrial is stating, the most important of
2 which is placing him in a halfway house -- my understanding is
3 there is one bed -- and that would be on lockdown except for
4 medical, court appearances, et cetera, so, I'll let Pretrial
5 state those conditions.

6 PRETRIAL OFFICER BASSLER-WIDE: Hello, Your Honor.

7 THE COURT: And please, speak closer to the mic and
8 identify yourself.

9 PRETRIAL OFFICER BASSLER-WIDE: Yep. Officer
10 Bassler-Wide from Pretrial.

11 We would recommend that the defendant report to
12 Pretrial Services for supervision.

13 The defendant shall abide by all conditions of release
14 of any current term of parole, probation, or supervised
15 release. By that, we mean his state release.

16 The defendant shall abide by the following
17 restrictions on personal association, place of abode, or
18 travel:

19 Travel is restricted to Clark County, Nevada.

20 The defendant shall maintain residence at a halfway
21 house or community corrections center as Pretrial Services or
22 the supervising officer considers necessary. The defendant is
23 only permitted to leave for religious services, medical
24 treatment services, attorney visits, court appearances,
25 court-ordered obligations, or other activity pre-approved by

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1 Pretrial Services.

2 On that note, prior to court, we did speak to the
3 U.S. Marshal Service. They let us know that if Mr. Damato is
4 the only defendant being released from Pahrump today that they
5 would be able to take him directly to the halfway house. We
6 would ask that if that is possible to be the case that they do
7 that.

8 The defendant shall avoid all contact, directly or
9 indirectly, with any persons who is or may become a victim or
10 personal witness in the investigation or prosecution, including
11 but not limited to Dina Titus and all other victims in his
12 state cases.

13 The defendant shall refrain from possessing a firearm,
14 destructive device, or other dangerous weapon.

15 The defendant shall refrain from use or unlawful
16 possession of a narcotic drug or other controlled substances as
17 defined in 21 U.S.C. § 802 unless prescribed by a licensed
18 medical practitioner -- practitioner. This includes marijuana
19 or any other item containing THC.

20 The defendant shall submit to any testing required by
21 Pretrial Services or the supervising officer to determine
22 whether the defendant is using a prohibited substance. Any
23 testing may be used with random frequency and may include urine
24 test, a remote alcohol testing system and/or any other form of
25 prohibited substance screening or testing.

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1 The defendant shall refrain from obstructing or
2 attempting to obstruct or tamper in any fashion with the
3 efficiency or accuracy of any prohibited substance screening or
4 monitoring which is required as a condition of release.

5 The defendant shall pay all or part of the cost of the
6 testing program based upon his ability to pay as Pretrial
7 Services or the supervising officer determines.

8 The defendant shall not be in the presence of anyone
9 using or possessing a narcotic drug or other controlled
10 substance.

11 The defendant shall submit to a mental health
12 evaluation as directed by Pretrial Services or the supervising
13 officer.

14 The defendant shall participate in mental health
15 treatment as directed by Pretrial Services or the supervising
16 officer.

17 The defendant shall pay all or part of the cost of the
18 medical or psychiatric treatment or evaluation based upon his
19 ability to pay as determined by Pretrial Services or the
20 supervising officer.

21 And I did forget one condition in regards to the
22 halfway house, that he pay all or part of the cost to reside at
23 the halfway house.

24 PRETRIAL OFFICER BUSTOS: Your Honor. . .

25 THE COURT: Yes, Ms. Bustos.

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1 PRETRIAL OFFICER BUSTOS: If I may make a
2 clarification. Pretrial Services recommended detention. If
3 the Court's inclined to release the defendant, these are the
4 recommended conditions of release, Your Honor.

5 THE COURT: Okay. That was my -- that was -- I was
6 going to ask that because I do see that the Pretrial Services
7 report does recommend detention. However, those are the
8 conditions that Pretrial Services would recommend should I find
9 that conditions could be fashioned.

10 PRETRIAL OFFICER BUSTOS: Yes, Your Honor. And -- and
11 one more -- and in addition to the halfway house, we listed
12 activities that he may be approved to leave the facility for.
13 However, the halfway house continuously modifies what any
14 resident may leave for due to the COVID-19, so even though
15 we're stating that, the halfway house may have something
16 different tomorrow, Your Honor.

17 THE COURT: Understood.

18 All right. So before we take the next step, I guess I
19 just wanted to ask certain questions. The first question that
20 I have is really directed more to Mr. Pugh. My -- I'm very
21 concerned with the facts alleged in this case, and I was
22 looking at the Pretrial Services report where it appears that
23 Mr. Damato really has not had any kind of contact with law
24 enforcement up until. . . 2015, and that case was due to I
25 believe a traffic violation --

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1 THE DEFENDANT: Your Honor --

2 THE COURT: Mr. Damato --

3 MR. PUGH: Well, the question's for me, Mr. Damato.

4 THE COURT: Mr. Damato, first Mr. Pugh will address
5 the Court and then if there's anything else that you would like
6 to say, I'll make sure that you and Mr. Pugh have a
7 conversation. He wants to make sure that you don't say
8 anything that could later on be used against you. Okay?

9 THE DEFENDANT: Understood, Your Honor. Thank you.

10 THE COURT: All right. So, Mr. Pugh, I see that he
11 has really had no issues with law enforcement up until March of
12 this year. I also saw that he was seeing a psychiatrist. I
13 guess the question that I have for you is whether he is
14 currently on any kind of medication, if so, what that is,
15 whether it's being made available to him -- oh, excuse me,
16 whether he gets (indiscernible) that medication on a regular
17 basis.

18 MR. PUGH: Well, Your Honor, he should be on
19 medication. They have not all been available to him.
20 Mr. Damato informed me that approximately 14 days ago was the
21 last time he had his medication, so he's been off it for
22 14 days. That's of -- a -- a concern to him.

23 I'd also like to talk about the allegations and the
24 conditions of release. I recognize that making a threat
25 against anyone is serious, and particularly against a

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1 congresswomen, and not -- not making any admissions as to what
2 the allegations are, I would just like to note that there's no
3 evidence that Mr. Damato possessed a gun; that he made any
4 plans to travel to Washington; or do any -- or took any steps
5 to fulfill any of the allegations that are represented in the
6 Complaint.

7 I'd also like to agree with Mr. Dickinson wherein he
8 says this all seems to have arisen out of an eviction.
9 Mr. Damato, up until then, other than a traffic incident, had
10 no -- I believe it was a traffic incident -- I -- I only got to
11 read the PSR -- I mean, the Pretrial Services report and I
12 don't have it in front of me, but whatever it was, was -- it
13 was minor and he seems to have gone off -- well, once again,
14 not admitting anything, it appears that on March 16th he kind
15 of went off the rails in relationship to this eviction. And --
16 and not being on his medication, I believe that the -- his
17 situation is overblown. I believe the state court has, to a
18 certain extent, recognized that in the fact that he was
19 released on his own recognizance. He has never done anything
20 before. His father says that he's not a danger to anyone, and
21 I believe that he could be trusted on release.

22 I would -- he also has indicated that he believes that
23 he can find a place to stay. And, so, recognizing the
24 conditions that Pretrial Services is recommending, we would ask
25 that he be allowed to look for a place to stay, and I

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1 understand that that can be done on the phone, but sometimes
2 permission might be needed to leave the halfway house and we
3 recognize that under the COVID-19 situation that that might be
4 limited, but nevertheless, we would ask that he be allowed to
5 find a place and if he can find a place and it's acceptable to
6 Pretrial Services, that he be allowed to leave. He -- and if
7 he is allowed to leave, he's willing to go on an electronic
8 monitoring to monitor his location to assure the Court of the
9 safety of the community and his appearance in court.

10 So, I mean, we -- we generally, by and large, agree
11 with the government as to the release into the halfway house,
12 but we would ask -- we have that one distinction that we'd be
13 asking that he be allowed to find a place and that if he can
14 find a place and if it's suitable to Pretrial Services, that he
15 be allowed to live outside the halfway house. Because --
16 because of the COVID-19 concerns and his condition of HIV, as
17 well as asthma, which is another indicator on the list of
18 things that are -- make you susceptible and at risk, or greater
19 risk, being in the halfway house, there are still other people
20 there. So moving him from Pahrump to the halfway house is not
21 a complete fix for his vulnerabilities whereas getting him in a
22 place of his own would be a much better resolution as it
23 relates to his safety. And for that reason, we would ask that
24 that other condition be added.

25 THE DEFENDANT: Your Honor, may I speak with the

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1 attorney for one quick moment?

2 THE COURT: Sure. So what we're going to do is this:
3 Mr. Damato, I'm going to need you to knock on the door to get
4 the attention of the guards. Go ahead.

5 THE DEFENDANT: Yes, ma'am.

6 (Brief pause in proceedings).

7 THE DEFENDANT: Guard? Hey, they want your -- the
8 judge wants to speak with you.

9 OFFICER GILES: Hi, Your Honor, Officer Giles.

10 THE COURT: Good afternoon. Hi. I was wondering if
11 you could go ahead and mute the video conference on
12 Mr. Damato's end so that he can have a conversation with his
13 attorney?

14 OFFICER GILES: Okay.

15 MR. PUGH: Your Honor, that will only mean that I
16 can't hear him.

17 THE COURT: Oh.

18 OFFICER GILES: So you want it muted on my end or
19 on -- on your -- you guys are muting it on your end?

20 THE COURT: What are --

21 MR. PUGH: Your Honor, I think -- I think the proc- --
22 I think the procedure is, is that I call a telephone number,
23 they have a phone, and I talk with Mr. Damato over the
24 telephone. I think that's --

25 (Simultaneous crosstalk).

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1 OFFICER GILES: That works. Do you need the
2 extension?

3 MR. PUGH: I believe it's 4561?

4 OFFICER GILES: Yep. 14561.

5 MR. PUGH: Okay. I've got that. Yeah.

6 THE COURT: (Indiscernible) is the phone in the room
7 where Mr. Damato is at?

8 MR. PUGH: It's --

9 OFFICER GILES: Yes, it is.

10 MR. PUGH: I believe it's going (indiscernible).

11 THE COURT: Okay. So let's go ahead and --

12 MR. PUGH: It's --

13 THE COURT: -- do it. I'm going to need the video
14 conference to be muted on that side so that he can have a
15 conversation with Mr. Pugh and nobody else will be able to
16 hear.

17 OFFICER GILES: Okay.

18 THE DEFENDANT: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 We're going to need to be muted, though.

21 OFFICER GILES: Give me one sec. I'm trying to find
22 it on here.

23 (Brief pause in proceedings).

24 THE COURT: All right. So for the record, we can't
25 hear anything. So they can have a conversation and we'll

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1 resume briefly, so if we could just have maybe like a 5-minute
2 recess and then we'll see where they're at.

3 COURTROOM ADMINISTRATOR: All rise.

4 (Recess was taken from 3:53:07 till 3:56:47 p.m.)

5 COURTROOM ADMINISTRATOR: We're back on record,
6 Your Honor.

7 THE COURT: All right. Mr. Damato, can you hear me?
8 Can you hear me?

9 THE DEFENDANT: I can hear you, Your Honor.

10 THE COURT: Okay. Perfect.

11 THE DEFENDANT: Can you hear me?

12 THE COURT: I can.

13 Were you able to have a conversation with your
14 attorney?

15 THE DEFENDANT: Oh, yeah. It was just one quick
16 simple question. Thank you for allowing me the time.

17 THE COURT: Of course.

18 All right.

19 MR. PUGH: Your Honor -- Your Honor, there's one --
20 there's one additional argument that Mr. Damato wanted me to
21 make regarding getting a place of his own.

22 THE COURT: Okay.

23 MR. PUGH: In addition to the list of items on his --
24 on his patient profile, is epilepsy. He has service dogs that
25 are able to recognize an epileptic seizure before it comes on.

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1 He's trying to show you that he's got that in his
2 pocket there at the facility.

3 THE COURT: Um-hmm. I see it.

4 MR. PUGH: So, in addition to the reasons that I've
5 already stated, if he had a place of his own, his dogs could be
6 there to help him, you know, to recognize when a seizure is
7 coming on. So, I just wanted to add that one last reason.

8 THE COURT: All right. And is he -- where is the dog
9 at right now?

10 MR. PUGH: The dogs --

11 THE DEFENDANT: They're in the shelter.

12 MR. PUGH: They're in a shelter.

13 THE COURT: Okay. All right.

14 THE DEFENDANT: Available for rent as of yesterday.

15 THE COURT: Okay.

16 THE DEFENDANT: Or purchase.

17 THE COURT: All right, Mr. Damato.

18 Mr. Damato, I'm going to ask you to take this
19 seriously because this is a really serious proceeding --

20 MR. PUGH: He was crying, Your Honor.

21 THE DEFENDANT: Your Honor, I'm crying. I'm sorry,
22 I'm crying. I'm not laughing.

23 THE COURT: Oh, okay. I thought you were laughing.
24 I'm sorry.

25 THE DEFENDANT: No. No. No. I'm crying over my

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1 dogs. I just want to see my -- my -- my three babies, Gregggy,
2 Chancy, and Tyler are their names.

3 THE COURT: Okay.

4 THE DEFENDANT: They're rescued from a kill shelter in
5 Hawaii. I bought a --

6 (Simultaneous crosstalk).

7 MR. PUGH: Okay. Mr. Damato --

8 THE DEFENDANT: -- first class to bring them here.

9 THE COURT: All right.

10 MR. PUGH: Mr. Damato --

11 THE COURT: All right. All right. I just wanted to
12 make sure that you were taking this seriously, Mr. Damato.
13 That's all.

14 THE DEFENDANT: Oh, very seriously, Your Honor.

15 THE COURT: All right. Okay. So, let me just recap
16 here for a second.

17 I understand that the government is not moving for
18 detention. I have heard the conditions that Pretrial Services
19 would like to have in place.

20 (Announcement over the PA system).

21 THE COURT: Can everybody hear me?

22 MR. PUGH: I can still hear you, Your Honor.

23 THE COURT: Okay.

24 MR. PUGH: I can still hear you.

25 THE DEFENDANT: I can hear you. It said -- the

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1 recording is saying the conference is now lost here, but I can
2 hear all of you.

3 THE COURT: Okay. So, the government is not moving
4 for detention. Pretrial Services is requesting detention.
5 However, they have mentioned some conditions that they would
6 ask to be put in place should I decide to release Mr. Damato.

7 In addition, Mr. Pugh has asked me to consider
8 modifying some of the conditions that Pretrial would ask for.

9 So, here is my finding:

10 Taking into consideration the nature and circumstances
11 of the offense, the weight of the evidence, the history and
12 characteristics of the defendant, whether at the time of the
13 offense he was subject to any conditions of release, the nature
14 and seriousness of the danger to any person or the community, I
15 find that conditions can be fashioned in this case to
16 reasonably assure the appearance of Mr. Damato and that he will
17 not pose a danger to the community.

18 Specifically, I note that he has lived in Las Vegas
19 since October of 2016 at the same address, which is 2641
20 Keating Circle. He was recently evicted from that place and
21 was arrested at the Red Rock hotel and casino as he was trying
22 to live there for a little while. He has not traveled since
23 2005. His passport is expired.

24 On the other hand, his families are -- his family ties
25 are not particularly strong. He has one -- father and a

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1 brother living in Florida. His father was not really sure of
2 where exactly Mr. Damato lived, other than the fact that he
3 lived in Las Vegas. And Mr. Damato characterized his
4 relationship with them as fair.

5 With regards to his mom, Mr. Damato's mother lives in
6 New York, and his relationship with her is poor, according to
7 him, as he has minimal contacts with her.

8 Mr. Damato's not married and does not have any kids.

9 Regarding danger to the community, as I've stated
10 previously, I am really concerned with the allegations in this
11 case. I am really concerned with the other behavior that led
12 to the second state case that appears in the Pretrial Services
13 report. Specifically, I am concerned that there have been
14 threatening messages to law enforcement officers and their
15 families. However, I do also take a look at his criminal
16 history, which is basically non-existing in this case until
17 March of this year.

18 I also note that both Judge Zimmerman in state court
19 and Judge Tobias in the state court have allowed him to be
20 released on a (indiscernible) recognizance bond.

21 I do take into account the fact that the government's
22 position, while taking this case very seriously, is that
23 conditions could be fashioned. I also appreciate the fact that
24 the government is taking into account, Mr. Damato, what your
25 health conditions are, specifically, asthma, the fact that you

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1 are HIV positive, and now we learn also that you may have
2 epilepsy as well. So, given the COVID-19 crisis and balancing
3 all of the different interests, the government is suggesting
4 that conditions could be fashioned in this case and is not
5 requesting your detention at this time. So I will go ahead and
6 release you pursuant to conditions, and we're going to talk
7 about that in a moment. However, before we do that, I want to
8 make sure of two things, Mr. Damato, that I need you to make
9 sure that you're listening to me very carefully:

10 If you are supposed to be taking psychiatric
11 medication, you --

12 MR. PUGH: Your Honor -- Your Honor, could you get
13 closer to the microphone, please? It's --

14 (Simultaneous crosstalk).

15 THE DEFENDANT: I can't hear, yeah.

16 MR. PUGH: (Indiscernible).

17 I'm sorry, Your Honor. Thanks.

18 THE COURT: Can you hear me now?

19 THE DEFENDANT: I can hear you, yes, Your Honor.

20 THE COURT: Is this better?

21 THE DEFENDANT: Much better.

22 THE COURT: Okay.

23 THE DEFENDANT: I'm leaning forward. I apologize.

24 THE COURT: No, that's okay. I just want to make sure
25 that you hear me very carefully. I said that I will go ahead

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1 and enter an order of release subject to conditions and we're
2 going to talk about those conditions in a moment. However, my
3 main concern is the following here:

4 One, if you are supposed to be taking psychiatric
5 medications, you have to take them.

6 Do we understand each other?

7 THE DEFENDANT: Your Honor, can you do me a favor?
8 Can you allow me -- if the 5-day eviction notice that's under
9 the law --

10 MR. PUGH: Mr. Damato --

11 THE DEFENDANT: -- that was revised in --

12 THE COURT: Okay. So Mr. Damato, let me just stop you
13 right there. This Court does not have any jurisdiction over
14 your eviction case. This Court only has --

15 THE DEFENDANT: Okay.

16 THE COURT: -- jurisdiction over the Complaint that
17 has been brought me.

18 THE DEFENDANT: I'll -- I'll meet with the
19 psychiatrist this week and I will get all the prescriptions
20 re-prescribed and I will pay for them myself if I have to if
21 the -- if my Medicare won't renew them at this time --

22 THE COURT: Okay. And I'm going to need you to --

23 THE DEFENDANT: -- as they're in the home.

24 THE COURT: And I'm going to need you to take the
25 extra step in taking them as well. Okay?

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1 THE DEFENDANT: Oh, I take them every day. Since
2 1996, I've been taking my HIV meds.

3 THE COURT: Okay. And I'm not talking just about your
4 HIV --

5 THE DEFENDANT: I -- I -- I promise you, you have my
6 word that I will take them and you can -- we can even check up
7 on it. I'll -- I'll -- I'll -- I'll keep a log.

8 THE COURT: Okay. So, in addition to the conditions
9 that we're going to be talking about in a moment, one of the
10 conditions that this Court is going to have is that you have to
11 take all of your medications, including the psychiatric
12 medications. Okay. And if you are not --

13 THE DEFENDANT: With pleasure.

14 THE COURT: If you are not taking those medications,
15 that could be grounds to bring you back before this Court so
16 that this Court can entertain another detention (indiscernible)
17 at that time.

18 Do you understand me?

19 THE DEFENDANT: I understand. I probably wouldn't be
20 in this position if I had access to my medication --

21 THE COURT: Okay. I don't need to --

22 THE DEFENDANT: -- so thank you for the clarity.

23 THE COURT: Yeah. Okay. And just make sure that you
24 understand, please --

25 MR. PUGH: Yes or no.

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1 THE COURT: -- refrain from making any statements.

2 Okay?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. So, as to the conditions, I
5 agree with all of the conditions that have been suggested by
6 Pretrial Services.

7 With regards to Mr. Damato's ability to seek a place,
8 so this is where I stand on that position. I understand that
9 the halfway house is not a perfect fit. I understand that some
10 of the same concerns that exist at a detention facility would
11 still exist at the halfway house. However, I'm also concerned
12 that if Mr. Damato is out looking for different places to
13 reside at, he is also coming into contact with different
14 people. So, we have exposure no matter what.

15 Mr. Damato is free to make whatever kind of calls he
16 wants from the halfway house to try and see whether he can find
17 a place. If there is a place that he has found, then I would
18 ask Mr. Pugh to bring the matter before the Court so that we
19 can entertain that. I'm happy to do that on an expedited
20 basis, but I'm not going to allow Mr. Damato to be moving in
21 and out of the halfway house for several reasons, one of which
22 is not only is he going to be exposed, but his exposure may
23 bring the virus into the halfway house as well. So, the
24 conditions will require for him to stay at the halfway house,
25 and movement is restricted as specified by Pretrial Services,

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1 understanding that this may change on a day-to-day basis and
2 his ability to move from the halfway house may become more
3 restrictive depending upon what happens in the community with
4 the COVID-19 crisis.

5 Do we understand that?

6 MR. PUGH: Yes, Your Honor.

7 THE COURT: Mr. Damato?

8 THE DEFENDANT: Yes, Your Honor. I do, Your Honor,
9 and thank you very much.

10 THE COURT: All right. As to. . . Was there another
11 condition, Mr. Pugh, that you were asking me to reconsider?

12 MR. PUGH: No, Your Honor, that was the only one.

13 THE COURT: All right. Okay. So, for the record, so
14 that we're all on the same page, I'm going to ask Pretrial
15 Services to set the conditions of Pretrial Services -- of
16 pretrial release one more time on the record. Mr. Pugh and
17 Mr. Damato, if you can't hear or if you have any questions,
18 please let me know.

19 PRETRIAL OFFICER BASSLER-WIDE: The defendant shall
20 report to --

21 MR. PUGH: Yes, Your Honor.

22 PRETRIAL OFFICER BASSLER-WIDE: -- Pretrial Services
23 for supervision.

24 The defendant shall abide by all conditions of release
25 of any current term of parole, probation, or supervised

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1 release.

2 The defendant shall abide by the following
3 restrictions on personal association, place of abode, or
4 travel:

5 Travel is restricted to the following areas:

6 Clark County, Nevada.

7 The defendant shall maintain residence at a halfway
8 house or correction -- community correction center as Pretrial
9 Services or the supervising officer considers necessary.

10 The defendant is only permitted to leave for religious
11 services, medical treatment services, attorney visits, court
12 appearances, court-ordered obligations, or other activities
13 pre-approved by Pretrial Services.

14 The defendant shall pay all or part of the cost for
15 residing at the halfway house or community corrections center
16 based upon his ability to pay as Pretrial Services or the
17 supervising officer determines.

18 The defendant shall avoid all contact, directly or
19 indirectly, with any person who is or may become a victim or
20 potential witness in the investigation or prosecution,
21 including but not limited to Dina Titus and all other victims
22 in the defendant's state cases.

23 The defendant shall refrain from possessing a firearm,
24 destructive device, or other dangerous weapons.

25 The defendant shall refrain from the use or unlawful

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1 possession of a narcotic drug or other controlled substances
2 defined in 21 U.S.C. 802 unless prescribed by a licensed
3 medical practitioner. This includes marijuana and/or any item
4 containing THC.

5 The defendant shall submit to any testing required by
6 Pretrial Services or the supervising officer to determine
7 whether the defendant is using a prohibited substance. Any
8 testing may be used with random frequency and may include urine
9 testing, a remote alcohol testing system and/or any form of
10 prohibited substance screening or testing.

11 The defendant shall refrain from obstructing or
12 attempting to obstruct or tamper in any fashion with the
13 efficiency and accuracy of any prohibited substance, testing,
14 or monitoring which is required as a condition of release.

15 The defendant shall pay all or part of the costs of
16 the testing program based upon his ability to pay as Pretrial
17 Services or the supervising officer determines.

18 The defendant shall not be in the presence of anyone
19 using or possessing a narcotic drug or other controlled
20 substance.

21 The defendant shall submit to a mental health
22 evaluation as directed by Pretrial Services or the supervising
23 officer.

24 The defendant shall participate in mental health
25 treatment as directed by Pretrial Services or the supervising

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1 officer.

2 The defendant shall pay all or part of the cost of the
3 medical or psychiatric treatment program or evaluation based
4 upon his ability to pay as determined by Pretrial Services or
5 the supervising officer.

6 And then the last condition that Your Honor ordered,
7 that the defendant must take prescribed medication, including
8 his psychiatric medication as directed.

9 THE COURT: Very well.

10 Mr. Damato, any questions?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Mr. Pugh, any questions at all or anything
13 further that you'd like the Court to consider?

14 MR. PUGH: Um. . . well, as I was listening to the
15 conditions, I noticed that it included alcohol. Mr. --
16 Mr. Damato doesn't drink, and that was confirmed by his father.
17 He said as far as he knows, his -- he doesn't even drink. So,
18 I understand the controlled substance, but I don't understand
19 the alcohol. I would ask that there be no alcohol testing
20 since he doesn't drink anyway.

21 THE COURT: All right. So my understanding at the
22 halfway house is that they do do those tests; is that correct?

23 PRETRIAL OFFICER BUSTOS: That is correct, Your Honor.
24 That is --

25 THE COURT: Okay.

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1 PRETRIAL OFFICER BUSTOS: -- that is mandatory. They
2 are tested upon return. However, the condition where it states
3 substance abuse/alcohol testing, that's just combined for the
4 both, it does not mean that we will do any other alcohol
5 testing outside what that -- what's done in the halfway house,
6 Your Honor.

7 THE COURT: Okay. Mr. Pugh, any other questions given
8 what Ms. Bustos just explained?

9 MR. PUGH: No other questions, Your Honor.

10 THE COURT: All right. Very well.

11 Mr. Dickinson, do you have anything further?

12 MR. DICKINSON: No, Your Honor.

13 THE COURT: All right. Well, thank you, everybody, so
14 much, and that concludes this hearing.

15 MR. DICKINSON: Did we get a prelim date?

16 THE DEFENDANT: Thank you, Your Honor.

17 MR. DICKINSON: Your Honor, I don't believe --

18 THE DEFENDANT: And thank you, everyone.

19 MR. DICKINSON: I don't believe we got a prelim date.

20 THE COURT: Oh, I'm sorry, give me one second. I did
21 not give you a Preliminary Hearing date and I did not ask, is
22 the Complaint under seal at this point?

23 MR. DICKINSON: No, Your Honor, it's under --

24 THE COURT: It's not.

25 MR. DICKINSON: It's been unsealed.

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1 THE COURT: All right. So --

2 MR. DICKINSON: It was not filed under seal.

3 THE COURT: So if we could have a Preliminary Hearing
4 date, Mr. Miller.

5 COURTROOM ADMINISTRATOR: Yes, Your Honor. The
6 Preliminary Hearing date at this time has been scheduled for
7 Friday, April the 17th, 2020, at 4 o'clock p.m. in Courtroom 4B
8 or unless otherwise specified by the courtroom deputy.

9 THE COURT: All right. Very well. Thank you,
10 everyone.

11 PRETRIAL OFFICER BASSLER-WIDE: Your Honor --

12 THE COURT: Oh, one more thing.

13 PRETRIAL OFFICER BASSLER-WIDE: One more thing,
14 Your Honor.

15 PRETRIAL OFFICER BUSTOS: One more thing, Your Honor.

16 PRETRIAL OFFICER BASSLER-WIDE: We will be -- just for
17 the record, we will be e-mailing reporting instructions to the
18 defendant's defense attorney as well as to the halfway house so
19 the defendant has further instructions on how to proceed with
20 Pretrial Services, and in addition, is it possible to. . .

21 THE COURT: Have him transported right away?

22 PRETRIAL OFFICER BASSLER-WIDE: Yes.

23 PRETRIAL OFFICER BUSTOS: Yes. As Mr. Carpenter
24 stated.

25 THE COURT: So I did forget that. I knew there was

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1 something else I was forgetting.

2 So, we do have the marshal deputy here today. It's
3 Pretrial Services' understanding that Mr. Damato can be
4 transported today from the detention facility in Pahrump to the
5 halfway house. I will ask that that, in fact, be the case.

6 I think that's it; right?

7 PRETRIAL OFFICER BASSLER-WIDE: Yes. That's all.

8 Thank you, Your Honor.

9 PRETRIAL OFFICER BUSTOS: Thank you, Your Honor.

10 THE COURT: All right. Okay. Thank you, everyone.

11 THE DEFENDANT: Thank you, Your Honor.

12 THE COURT: Thank you.

13 THE DEFENDANT: Oh, God bless America, everyone. Stay
14 safe.

15 (Proceedings adjourned at 4:12:48 p.m.)

16

17 C E R T I F I C A T E

18

19 I, Heather K. Newman, court-approved transcriber, certify
20 that the foregoing is a correct transcript transcribed from the
21 official electronic sound recording of the proceedings in the
22 above-entitled matter.

23

24 /s/ Heather K. Newman
25 Heather K. Newman

4-25-2020
Date